

DEPARTMENT OF STATE REVENUE
02960283-02960284.LOF

LETTER OF FINDINGS NUMBER: 96-0283 IT & 96-0284

Adjusted Gross Income Tax

For The Periods ending: 02/10/92 & 12/31/92

NOTICE: Under Indiana Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Income Tax – Consolidated Status

Authority: Indiana Code § 6-2.1-5-5, Indiana Code § 6-3-4-14, Indiana Administrative Code 45 IAC 3.1-1-38 & 45 IAC 3.1-1-29, Department of Revenue Information Bulletin #12

The taxpayer protests the disallowance of the Consolidated filing status.

STATEMENT OF FACTS

Taxpayer is an Indiana corporation who's principal business activity is the design and execution of programs for embossing, encoding and hot-stamping plastic credit, debit, promotional and identification cards. Taxpayer's customers provide the cards on which taxpayer performs its various services. All of taxpayer's stock was acquired by a holding company. The taxpayer and the holding company sought to file their Indiana income tax return on a consolidated basis, so that the holding company's operating loss would offset the taxpayer's income. Following an audit, the Department, disallowed the consolidated filing. The taxpayer and the holding company protest the disallowance of the consolidated filing.

1. Income Tax – Consolidated Status

Taxpayer and the holding company protest the Department's disallowance of the consolidated filing for the purpose of determining Adjusted Gross Income of taxpayer and the holding company. Under Indiana law, corporate members of an affiliated group, that are incorporated in Indiana or are authorized to do business in the State of Indiana, may file a single consolidated return for adjusted gross income tax purposes, IC 6-3-414(a). Indiana adopts the Federal definition of an affiliated group, 26 U.S.C. 1504, except that the affiliated group may not include any corporation that does not have adjusted gross income derived from sources within the State of Indiana, IC 6-3-4-14(b). In support of its contention, taxpayer provided a copy of its original protest letter and a copy of a memorandum prepared by taxpayer's accountant. However, neither of these documents addresses whether the holding company had any adjusted gross income derived from Indiana sources. The documents merely recite the fact that the holding company purchased taxpayer and because of this, the holding company incurred transaction costs that it wishes to offset. Indiana law specifically provides that notice of a proposed assessment is prima facie evidence that the Department's claim for unpaid taxes is valid, IC 6-8.1-5-1. Taxpayer bears the burden of showing the assessment is wrong. In this matter, taxpayer fails to provide any legal or factual support for this position.

FINDINGS

The taxpayer's protest is denied.